

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION NO : 6829 of 2004

Between:

Smt. M. Bharathamma W/o Sathaiah
R/o 17-2-346/A, Kurmaguda Hyderabad

..... PETITIONER

AND

1. The District Consumer Redressal Forum-II, Hyderabad Chandravihar, M.J. Road, Hyderabad, rep. by its President.
2. The A.P. State Consumer Disputes Redressal Commission Khairatabad, Hyderabad rep. by its Chairman
3. The Additional Judge Small Causes Court City Civil Court, Hyderabad.
4. D. S. Srinivas Reddy S/o Satyanarayana Reddy R/o P.O. Box No. 46 Kitgum, Uganda, East Africa rep. by his GPA Holder M. Venkat Reddy S/o Major, R/o 12-2-420, Gudimalkapur
Mehidpatnam, Hyderabad.
5. Smt. B. Pavani W/o Srinivasa Reddy R/o P.O. Box No. 46 Kitgum, Uganda, East Africa, rep. by her GPA Holder M. Venkat Reddy S/o Major, R/o 12-2-420, Gudimalkapur
Mehidpatnam, Hyderabad.
6. Mahendra Chit Funds & Financiers 17-2-534, Kurmaguda, Saidabad, Hyderabad rep by Manager Gopinath & its MD
Mallappa Jai Hind Hotel, Saidabad Hyderabad
7. N. Pandu, Business R/o 17-2-344, Kurmaguda, Hyderabad
8. Ch. Sunitha W/o Ch. Sriramulu
17-2-333, Kurmaguda, Saidabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction, preferably a Writ of Certiorari quashing the orders passed by the respondents No.1 and 2 in FP No. 967/2003 in PPNo. 47/2003 dt 3-11-2003 in CD No. 1023/1998 declaring the said action on their part is bad, illegal, and violative of Articles 14 and 21 of the Constitution of India, and consequently, set a side the same in the interest of justice.

Counsel for the Petitioner: Mr. P.V. SANJEEVA RAO

Counsel for the Respondents1 &2: G.P. for Consumer

Forum.

Counsel for the Respondents 3 to 8: None present.

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

Petitioner is arrayed as a party in P.P.No. 47 of 2003 filed in C.D.No. 1023 of 1998 before the District Consumer Disputes Redressal Forum-II, Hyderabad. She is questioning the order passed on 7.10.2003 in the said PP No.47 of 2003 directing to secure the presence of the petitioner and three others by issuance of non-bailable warrants. Against this order, petitioner had preferred an appeal before the A.P. State Consumer Disputes Redressal Commission, Hyderabad. Appeal was dismissed on 3.11.2003. The said order is also under challenge in this petition. It is the case of the petitioner that order dated: 7.10.2003 was passed to secure her presence and presence of Respondents 6 to 8 herein, though the petitioner had nothing to do with the issuance of cheque in favour of respondents 4 and 5 nor in any way petitioner is associated with the alleged transaction. It is also petitioner's case that already I.P. No. 38/2003 has been filed before Respondent No.3 seeking to declare/adjudicate her as an insolvent and the claim made by respondents 4 and 5 is also subject matter of the said I.P. It is also the petitioner's case that she filed a memo on 2.9.2003 before the first respondent intimating the interim protection granted to her

by Respondent No.3. But, in spite of that, warrants were issued on 7.10.2003.

We have heard the learned counsel for the petitioner.

P.P. No. 47 of 2003, as per the docket order, was registered on 21.7.2003. Notices were directed to be issued to respondents therein. Writ Petitioner is Respondent No.4 therein. Counsel for the petitioner was present on 25.8.2003 and it was pointed out that Insolvency Petition was pending before the Civil Court to declare her as insolvent. Docket order says that no stay order was filed, and, the case was adjourned to 2.9.2003. On 2.9.2003, order in I.A.No. 129/2003 in I.P.No. 38/2003 on the file of Additional Judge, City Small Causes Court, Hyderabad was produced on behalf of the petitioner. Notice on that day was directed to be issued and the case was posted to 7.10.2003. On 7.10.2003, non-bailable warrants were directed to be issued to secure the presence of the petitioner and three other opposite parties.

In view of the fact that proceedings are pending before the District Consumer Disputes Redressal Forum-II, who alone has to take appropriate decision as to maintainability of P.P.No.47 of 2003 in view of the orders, if any, passed in I.P.No. 38 of 2003, and, in which proceedings alone, petitioner can raise all questions as to whether or not she is liable to pay the amount, no useful purpose will be served in keeping this petition pending on our record. Non-bailable warrants were directed to be issued on 7.10.2003 only to secure the presence of Respondents 1 to 4 in P.P. No.47 of 2003, since, it appears that nobody on their behalf appeared before the District Consumer Disputes Redressal Forum-II. Accordingly, we dispose of the Writ Petition with direction that non-bailable warrants issued against the petitioner pursuant to order dated: 7.10.2003 in P.P.No. 47 of 2003 shall remain stayed subject to the condition of petitioner putting in appearance before the District Consumer Disputes Redressal Forum-II, Hyderabad, within a period of one month from today, whereafter, it will be open to the petitioner to obtain appropriate orders from the said Forum and raise all objections before it while contesting those proceedings. It is made clear that, in case, petitioner will fail to appear before the District Consumer Redressal Forum-II, Hyderabad, it will be open to the said Forum to proceed in accordance with law. No costs.

DEVINDER GUPTA, C.J.

17.8.2004.

C.V.RAMULU, J.

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To

1. The District Consumer Redressal Forum-II, Hyderabad Chandravihar, M.J. Road, Hyderabad, rep. by its President.
2. The A.P. State Consumer Disputes Redressal Commission Khairatabad, Hyderabad rep. by its Chairman
3. The Additional Judge Small Causes Court City Civil Court, Hyderabad.
4. Two CCs to Govt. Pleader for Consumer Forum, High Court Buildings, Hyderabad. (OUT).
5. Two CD copies.